

**NOTICE OF INTENT TO ADOPT A PROPOSED AMENDMENT
TO THE GEORGIA BOARD OF MASSAGE THERAPY
CHAPTER 345-10, DISCIPLINE, RULE 345-10-.04, *UNLICENSED PRACTICE*, AND
NOTICE OF PUBLIC HEARING**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Board of Massage Therapy (hereinafter "Board") proposes an amendment to Rule Chapter 345-10, *Discipline*, Rule 345-10-.04 *Unlicensed Practice* (hereinafter "proposed rule amendment").

This notice, together with an exact copy of the proposed rule amendments and a synopsis of the proposed rule amendment, is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rule amendment, and a synopsis of the proposed rule amendment may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Office of the Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217. These documents will also be available for review on the Board website at www.sos.state.ga.us/plb/massage or by contacting the Board office at 478-207-2440.

A public hearing is scheduled to begin at 10:00 a.m. on Friday, April 23, 2010, in the Office of the Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217 to provide the public an opportunity to comment upon and provide input into the proposed rule amendment.

At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five (5) minutes per person. Written comments are welcomed. Such written comments must be legible and signed, should contain contact information from the maker (address, telephone number and/or facsimile number, etc.) and be actually received in the office prior to the close of business (5:00 p.m. EDT) on Friday, April 16, 2010. Written comments should be addressed to Randall D. Vaughn, Director, Secretary of State, Professional Licensing Boards Division, Georgia Board of massage Therapy, 237 Coliseum Drive, Macon, Georgia 31217; Fax (866) 888-7127.

The Board will consider the proposed rule amendment for adoption at its meeting scheduled to begin at 10:10 a.m., Friday April 23, 2010 at the Georgia Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217. According to the Department of Law, State of Georgia, the Board has the authority to adopt proposed rule amendment 345-10-.04 pursuant to authority contained in O.C.G.A. §§ 43-1-20.1, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-13, 43-24A-14, 43-24A-15, 43-24A-17 AND 43-24A-20

At its meeting Friday, February 26, 2010, the Board voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the

objectives of O.C.G.A. §§ 43-1-20.1, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-13, 43-24A-14, 43-24A-15, 43-24A-17 AND 43-24A-20.

Additionally, at its meeting Friday, February 26, 2010, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-20.1, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-13, 43-24A-14, 43-24A-15, 43-24A-17 AND 43-24A-20 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the field of massage Therapy.

For further information, contact the Board office at (478) 207-2440.

This notice is given in compliance with Section 4(a)(1) of the Georgia Administrative Procedures Act (O.C.G.A. §50-13-4).

This 23rd day of March, 2010.

Randall D. Vaughn
Director
Professional Licensing Boards

Posted: March 23, 2010

**SYNOPSIS OF PROPOSED CHANGES TO THE GEORGIA BOARD OF MASSAGE
THERAPY RULE FOR CHAPTER 345-10 *DISCIPLINE*, RULE 345-10-.04
*UNLICENSED PRACTICE***

Purpose: The purpose of this rule amendment is to expand the rule to contain updated Board policies with regard to disciplinary matters.

Main Features: The rule provides for the expansion of the current rule to contain current Board policies regarding cease and desist proceedings, fines for unlicensed practice, failure to renew a license and, informing the Board of updated name and contact information.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS TO THE GEORGIA BOARD OF MASSAGE THERAPY RULE FOR
CHAPTER 345-10 *DISCIPLINE*, RULE 345-10-.04 *UNLICENSED PRACTICE***

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

345-10-.04 Unlicensed Practice. Amended.

~~Fines, in addition to or in conjunction with a Cease and Desist Order, shall be imposed in accordance with the following guidelines:~~

~~(a) If the time period determined as “unlicensed practice” is:~~

~~• 0–30 days: \$100 fine with a letter of concern from the board~~

~~• 31–180 days: \$250 fine and/or C&D Order~~

~~• 181–365 days: \$500 fine and/or C&D Order~~

~~• Over 365 days: Board to determine actions to be taken; fine of not more than \$500 per offense, \$1000 and/or possible imprisonment per subsequent or second offense, and a C&D Order may be imposed.~~

(1) Individuals who have engaged in the practice of massage therapy without a valid and active Georgia license shall be subject to a Cease and Desist Order, public reprimand, fine, and/or other sanction imposed by the board, as authorized by law.

(2) Fines for unlicensed practice, in addition to or in conjunction with any other board sanction, may be imposed according to the following guidelines:

(a) Unlicensed practice determined by the board to be:

1. Practice for one (1) month or less: Letter of Concern from the board;

2. Practice over one (1) month but not exceeding three (3) months: fine of \$100 per month;

3. Practice over three (3) months but not exceeding one (1) year: fine of \$500;

4. Practice over one (1) year but not exceeding two (2) years: fine of \$750.00;

5. Practice over two (2) years but not exceeding three (3) years: fine of \$1,000;

6. Practice over three (3) years: fine of \$1000 plus an additional fine of \$100 for each month or portion thereof over three (3) years, not to exceed a total fine of \$5,000.

(b) Mitigating circumstances may be taken into account in varying the amount of assessed fines, subject to the board's discretion.

(c) Licensees who fail to renew their licenses by the license expiration date , and who continue to practice as massage therapists after the license expiration date, have engaged in unlicensed practice and are subject to disciplinary action and fines imposed by the board.

(3) It is the responsibility of the licensee to inform the board in writing of a change in any of the following information within thirty (30) days of such change:

(a) physical address;

(b) mailing address;

(c) email address;

(d) telephone number(s); and

(e) change of name (must provide legal documentation reflecting name change).

(4) It is the responsibility of each licensee to renew his or her license prior to the license expiration date regardless of whether the licensee receives a renewal notice from the board.

Authority: O.C.G.A. §§ 43-1-20.1, 43-1-25, 43-24A-3, 43-24A-7, 43-24A-8, 43-24A-13, 43-24A-14, 43-24A-15, 43-24A-17 AND 43-24A-20